

Department of the Navy, DoD

§ 762.112

If you wish to have witnesses summoned, see clerk at once for assistance.

If you admit the claim, but desire additional time to pay, you must come to the hearing in person and state the circumstances to the court.

You may come with or without an attorney.

(Seal)

Clerk of the Court
Midway Islands Courts

(f) The foregoing verification entitles the plaintiff to a judgment by default, without further proof, upon failure of defendant to appear, if the claim of the plaintiff is for a liquidated amount. If the amount is unliquidated, the plaintiff shall be required to present proof of his claim.

(g) The clerk shall furnish the plaintiff with a notice of the day and hour set for the hearing. The hearing shall not be less than 15 days nor more than 30 days from the date of the filing of the action unless a continuance is granted by the judge for good cause shown. All actions filed in the court shall be made returnable therein.

§ 762.104 Time limitations.

All claims must be commenced as set out in § 762.102, within two years after the claim arises. A claim for money arises when it is due, owing, and unpaid.

§ 762.106 Costs and fees; waiver.

The fee for issuing summons and copies, trial, judgment, and satisfaction in an action in the Small Claims Court shall be not more than \$5. Other fees shall be as the court prescribes. The judge may waive the prepayment of costs or the payment of costs accruing during the action upon the sworn statement of the plaintiff or upon other satisfactory evidence of his inability to pay the costs. When costs are so waived the notation to be made on the records of the court shall be "Prepayment of costs waived" or "Costs waived." The terms "pauper" or "in forma pauperis" may not be employed in the court. If a party fails to pay accrued costs, though able to do so, the judge may deny him the right to file a new case in the court while the costs remain unpaid, and likewise deny him

the right to proceed further in any case pending in the court.

§ 762.108 Set-off or counterclaim; pleading; retention of jurisdiction.

If the defendant, in an action in the Small Claims Court, asserts a set-off or counterclaim, the judge may require a formal and concise plea of set-off to be filed, or may waive the requirement. If the plaintiff requires time to prepare his defense against the counterclaim or set-off, the judge may continue the case for that purpose. When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims Court, as provided by § 762.100, but is for less than \$1000, the action shall remain in the Small Claims Court and be tried therein in its entirety. No set-off or counterclaim for an amount greater than \$1000 may be asserted in the Small Claims Court.

§ 762.109 Jury trial; demand.

In a case filed or pending in the Midway Islands Court under § 762.100 in which a party entitled to a trial by jury under amendment VII, United States Constitution, files a demand therefor, the case shall be assigned to and tried in the United States District Court for the District of Hawaii under the procedure provided for jury trials in that court.

§ 762.110 Pre-trial settlement.

On the return day specified by § 762.102(g), or at such later time as the judge sets, the trial shall be had. Immediately prior to the trial of a case, the judge shall make an earnest effort to settle the controversy by conciliation. If no settlement is effected, the judge shall proceed with the hearing on the merits pursuant to § 762.112.

§ 762.112 Trial.

(a) The parties and witnesses shall be sworn. In any case in which the civil rights, powers, and duties of any person on the Midway Islands are not otherwise prescribed by the laws of the United States or the laws made applicable under the Act of June 1950 (chapter 253, 64 Stat. 217), the judge shall conduct the trial in such manner as to